

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: AUGUST 16, 2006**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: ZON-12276 - APPLICANT/OWNER: MARISELA CARDONA**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE JUNE 7, 2006 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.***

**\*\* CONDITIONS \*\***

The Planning Commission (7-0 vote) and staff recommend DENIAL. If approved, subject to:

**Planning and Development**

1. A General Plan Amendment (GPA-12274) to a M (Medium Density Residential) land use designation approved by the City Council.
2. A Resolution of Intent with a two-year time limit is hereby granted.
3. A Site Development Plan Review (SDR-12272) application approved by the City of Las Vegas is required prior to issuance of any permits, any site grading, and all development activity for the site.

**Public Works**

4. Construct all incomplete half street improvements on Tonopah Street adjacent to this site concurrent with development of this site. All existing paving damaged or removed by this development shall be restored at its original location and to its original width concurrent with development of this site. Extend all required underground utilities, such as electrical, telephone, etc., located within public rights-of-way, past the boundaries of this site prior to construction of hard surfacing (asphalt or concrete).
5. A Drainage Plan and Technical Drainage Study must be submitted to and approved by the Department of Public Works prior to the issuance of any building or grading permits, submittal of any construction drawings or the submittal of a Map subdividing this site, whichever may occur first. Provide and improve all drainageways recommended in the approved drainage plan/study. The developer of this site shall be responsible to construct such neighborhood or local drainage facility improvements as are recommended by the City of Las Vegas Neighborhood Drainage Studies and approved Drainage Plan/Study concurrent with development of this site. In lieu of constructing improvements, in whole or in part, the developer may agree to contribute monies for the construction of neighborhood or local drainage improvements, the amount of such monies shall be determined by the approved Drainage Plan/Study and shall be contributed prior to the issuance of any building or grading permits, or the recordation of a Map subdividing this site, whichever may occur first, if allowed by the City Engineer.

**\*\* STAFF REPORT \*\***

**APPLICATION REQUEST**

This is a request for a Rezoning from R-E (Residence Estates) to R-3 (Medium Density Residential) on 1.62 acres at 814 North Tonopah Drive.

**EXECUTIVE SUMMARY**

Lands to the east side of Tonopah Drive consist primarily of large lots and are inappropriate for apartments and condominiums. Lands on the west side of Tonopah are better suited for higher densities. The site is currently located within the Rural Preservation Overlay District, where good cause must be shown to increase density. As adequate justification has not been shown, the recommendation is for denial.

**BACKGROUND INFORMATION**

**A) *Related Actions***

- 10/20/76      The City Council approved the appeal of the Board of Zoning Appeal denial of a Variance (V-0054-76) to allow the on-premise sale and advertising of wood and hay on the subject property. The Council added a condition requiring expiration of the Variance on 04/01/77. A follow-up inspection on 04/18/77 found that the condition was satisfied.
- 10/19/83      The City Council approved a request to Rezone (Z-0081-83) property south of the subject site from R-E (Residence Estates) to R-PD3 (Residential Planned Development – 3 Units Per Acre) and a Waiver of the five-acre minimum site area requirement to allow four single-family residential lots on 1.33 acres. The Planning Commission and staff recommended approval.
- 03/15/06      The City Council accepted the applicant's request to Withdraw Without Prejudice a General Plan Amendment (GPA-10789) to change the Master Plan land use designation from L (Low Density Residential) to M (Medium Density Residential); a Rezoning (ZON-10792) from R-E (Residence Estates) to R-3 (Medium Density Residential); a Variance (VAR-10795) to allow a reduction in the Residential Adjacency setback and the required setbacks; and a Site Development Plan Review (SDR-10796) for a proposed 24-unit apartment project on 1.49 acres abutting the east side of the subject property. The Planning Commission and staff recommended denial.
- 04/27/06      The Planning Commission recommended denial of companion items GPA-12274 and SDR-12272 concurrently with this application.

04/27/06 The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #41/ss).

***B) Pre-Application Meeting***

02/28/06 Staff detailed the submittal requirements for General Plan Amendment, Rezoning and Site Development Plan Review applications.

***C) Neighborhood Meetings***

03/22/06 Ten neighborhood residents attended and had the following concerns and comments:

- The project should have a perimeter wall and dense landscaping to screen the buildings from the adjacent single-family residences.
- Concerns were raised about the maintenance of the apartment complex immediately north of the subject site.
- Residents wanted the units to be owner-occupied, rather than rental units, and that the CC&R's for the property should prevent owners from renting or leasing the units for two years.
- Concern about maintenance requirements and formation of an HOA.

The applicant committed to construct an eight-foot high perimeter wall. The applicant agreed to requiring that owners be restricted from leasing units for two years. The applicant stated that no variances or waivers were being requested, and that they would be including additional landscape materials in the buffer areas to screen the project from adjacent properties. Later, the applicant changed the request from apartments to condominiums and redesigned the site to avoid a Residential Adjacency variance.

**DETAILS OF APPLICATION REQUEST**

***A) Site Area***

Net Acres: 1.62

***B) Existing Land Use***

Subject Property: Single Family Dwellings  
North: Multi Family Dwellings (Apartments)  
South: Single Family Dwellings  
East: Undeveloped  
West: Apartments, Townhouses

***C) Planned Land Use***

Subject Property: L (Low Density Residential)  
North: M (Medium Density Residential)  
South: L (Low Density Residential)  
East: L (Low Density Residential)  
West: M (Medium Density Residential)

**D) Existing Zoning**

Subject Property: R-E (Residence Estates)  
North: R-3 (Medium Density Residential)  
South: R-PD3 (Residential Planned Development – 3 Units Per Acre)  
East: R-E (Residence Estates)  
West: R-3 (Medium Density Residential)  
R-PD16 (Residential Planned Development – 16 Units Per Acre)

**E) General Plan Compliance**

The subject site is designated L (Low Density Residential) on the Southeast Sector Map of the Master Plan. This land use category typically allows single-family detached homes and manufactured homes on individual lots up to 5.49 units per acre. Gardening, home occupations and family child care facilities are also permitted. The applicant has requested a General Plan Amendment to M (Medium Density Residential), which would allow up to 25.49 units per acre. The proposed Rezoning to R-3 (Medium Density Residential) would then conform with the Master Plan.

<b><i>SPECIAL DISTRICTS/ZONES</i></b>	<b>Yes</b>	<b>No</b>
<b>Special Area Plan</b>	<b>X</b>	
West Las Vegas Plan	X	
<b>Special Overlay District</b>	<b>X</b>	
Airport Overlay District -140 Feet	X	
<b>Trails</b>	<b>X</b>	
Pioneer Trail	X	
<b>Rural Preservation Overlay District</b>	<b>X</b>	
<b>County/North Las Vegas/HOA Notification</b>		<b>X</b>
<b>Development Impact Notification Assessment</b>		<b>X</b>
<b>Project of Regional Significance</b>		<b>X</b>

The site is located within the West Las Vegas Plan. The Plan projects a L (Low Density Residential) land use for the area east of Tonopah Drive and south of Washington Avenue, of which this site is a part. This would change to M (Medium Density Residential) if the companion General Plan Amendment (GPA-12274) is approved.

The site is in the Airport Overlay District; however, the proposed R-3 (Medium Density Residential) District would only allow a maximum height of 35 feet, a height that is unrestricted by the overlay.

The site is located adjacent to the Pioneer Trail, which was completed by the City of Las Vegas. It consists of a five-foot sidewalk, historical markers and street banners. The developer is not responsible for maintenance of this trail.

The entire subject site is located within the Rural Preservation Overlay District (RPOD) as described in Title 19.06.150. The intent of this overlay district is to maintain a rural character for the neighborhood and to provide adequate buffer areas and an orderly and efficient transition of land uses. Land is disqualified from status as a Rural Preservation Neighborhood, or as a required buffer, if it is closer than 330 feet to a road greater than 99 feet in width. In this case, Washington Avenue is designated as an 80-foot Secondary Collector street on the Master Plan of Streets and Highways; therefore, the site is subject to the restrictions of the RPOD. Although the site is currently located within the RPOD, it does not meet the definition of a Rural Preservation Neighborhood and may be removed from the RPOD at a later date. Even if that were to occur, the subject site would still be located within the 330-foot buffer surrounding the existing Rural Preservation Neighborhoods, which extend north of Washington Avenue. Good cause must still be shown to justify approval of a General Plan Amendment or Rezoning application to increase the density or intensity of use on the site.

***F) Density***

<b><i>EXISTING ZONING</i></b>	<b><i>PERMITTED DENSITY</i></b>	<b><i>PROPOSED ZONING</i></b>	<b><i>PERMITTED DENSITY</i></b>	<b><i>GENERAL PLAN</i></b>	<b><i>PERMITTED DENSITY</i></b>
R-E (Residence Estates)	2.18 du/ac	R-3 (Medium Density Residential)	25.49 du/ac	L (Low Density Residential)	5.49 du/ac

A related proposal (GPA-12274) requests to change the land use designation of the subject site to M (Medium Density Residential), which would allow up to 25.49 dwelling units per acre. The proposed Rezoning of the property to R-3 (Medium Density Residential) would allow a similar change to multi-family residential uses from low density residential that would be in conformance with the Master Plan land use. The density would increase from a maximum of 2.18 units per acre to a maximum of 25.49 units per acre.

**ANALYSIS**

***General Analysis and Discussion***

The site is located mid-block on Tonopah Drive, south of Washington Avenue. East of Tonopah, the area south of Washington is almost exclusively zoned R-E (Residence Estates) and consists of large lots. The site is located between existing properties zoned R-3 (Medium Density Residential) and R-PD3 (Residential Planned Development – 3 Units per Acre). The apartments on the existing R-3 property face Washington Avenue and are significantly less dense than the maximum density allowed on the property. The planned development was created in 1983 with approval of a waiver, but represents the only other area higher in density east of Tonopah than the R-E lots. A Rezoning to R-3 on the subject site would be an inappropriate transition from single-family to medium-low density multi-family uses. Therefore, the recommendation is for denial.

## **FINDINGS**

In order to approve a Rezoning application, pursuant to Title 19.18.040, the Planning Commission or City Council must affirm the following:

**1. “The proposal conforms to the General Plan.”**

With approval of the companion amendment to the Master Plan (GPA-12274) that would allow up to 25.49 dwelling units per acre on the subject site, the proposed Rezoning to R-3 (Medium Density Residential), if approved, will conform to the Master Plan land uses.

**2. “The uses which would be allowed on the subject property by approving the rezoning will be compatible with the surrounding land uses and zoning districts.”**

Approval of this item will allow for the construction of various types of multi-family units such as plexes, townhouses, and low to medium-density apartments on the subject site. This is not an appropriate transition from the existing single-family residential development to the south, which has a density of three units per acre and an average lot size of over 14,000 square feet. In addition, property zoned R-E (Residence Estates) for densities lower than 2.5 units per acre are located to the east. Townhouses and apartments are located west of the site across Tonopah Drive, and there are existing apartments north of the site.

**3. “Growth and development factors in the community indicate the need for or appropriateness of the rezoning.”**

While additional multi-family units are needed to provide affordable housing within the city, the Rezoning for these uses is not appropriate at this location.

**4. “Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed zoning district.”**

Tonopah Drive, a 60-foot right-of-way, is adequate in size to serve the subject site and provide a connector to Washington Avenue, designated a Secondary east-west Collector on the Master Plan of Streets and Highways.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

16

## **ASSEMBLY DISTRICT**      6

## **SENATE DISTRICT**      4

## **NOTICES MAILED**      221 by Planning Department

**APPROVALS** 0

**PROTESTS** 0